

SUMMARY ANALYSIS OF AMENDED BILL

Author: Bowen Analyst: Roger Lackey Bill Number: AB 27
Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 03-17-98
Attorney: Doug Bramhall Sponsor:

SUBJECT: Minimum Tax/Effective Date of Dissolution Of Corporations/Certificate of Surrender

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO SUPPORT.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED February 17, 1998 STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

This bill would provide that a foreign corporation that has submitted a certificate of surrender, and a domestic corporation for which proceedings for winding up have commenced and that no longer does business, shall not be subject to the minimum franchise tax for income years beginning on or after the date of the submission or after the date the order for winding up is entered.

SUMMARY OF AMENDMENT

The March 17, 1998, amendment made minor technical changes and incorporated the language drafted by the department at the author's request regarding foreign corporations surrendering the right to do business and domestic corporations winding up.

The implementation concerns discussed in the department's analysis of AB 27 as amended February 17, 1998, are resolved.

Except for the discussion in this analysis, the department's analysis of AB 27, as amended February 17, 1998, still applies.

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

☒ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved _____
Position Disapproved _____
Position Noted _____

Department/Legislative Director Date
Johnnie Lou Rosas **4/9/98**

Agency Secretary Date

By: Date:

Technical Consideration

Amendment 1 would link the changes in the Revenue and Taxation Code regarding the effective date of surrender for foreign corporations from the Revenue and Taxation Code to the specific provision of the Corporations Code.

Tax Revenue Estimate

Based on data and assumptions discussed below, this bill would result in revenue losses as shown below. Estimates assume the bill would be effective for requests of dissolution on or after January 1, 1998, with enactment assumed after June 30.

Estimated Revenue Impact of AB 27 As Amended 3/17/98 [\$ In Millions]		
1998-99	1999-00	2000-01
(\$2)	(\$2)	(\$2)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

The revenue impact of this bill would be determined by the number of dissolving corporations (foreign and domestic) that otherwise would pay an additional year's minimum franchise tax.

Each year the department processes approximately 28,000 requests for certificates of tax clearance. Roughly 40% of these requests are delayed because the department needs additional information before issuing a tax clearance certificate. Of the number of corporations delayed, about 25% pay the minimum tax of \$800 for an additional year. Corporations that pay an additional year's minimum tax under current law are not entitled to the conditional dissolution provided to certain domestic corporations. Under this bill, all corporations (foreign and domestic) would be entitled to conditional dissolution. Multiplying the number of taxpayers that would otherwise pay an additional year's minimum tax under current law by \$800 derives the estimate above.

Board Position

Support.

At its March 26, 1998, the Franchise Tax Board voted 2-0 to support this bill, with Robin J. Dezember, on behalf of Member Craig L. Brown, abstaining.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 27
As Amended March 17, 1998

AMENDMENT 1

Amend Section 23334 of the Revenue and Taxation Code as follows:

23334. No decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the Secretary of State file a decree of dissolution, or file in the case of a credit union incorporated under the California Credit Union Law a certificate of election to dissolve, or in the case of any other taxpayer file a certificate of dissolution, except as provided in subdivision (c) of Section 1905 or subdivision (b) of Section 2112 of the Corporations Code, or any other document by which the term of existence of the taxpayer shall be reduced or terminated, nor shall the Secretary of State file any certificate of the surrender by a foreign corporation of its right to do intrastate business in this state unless the taxpayer obtains from the Franchise Tax Board and files with the court, county clerk, or Secretary of State as the case may be, a tax clearance certificate indicating that the Franchise Tax Board is satisfied from the available evidence that all taxes imposed by this chapter have been paid or are secured by bond, deposit, or otherwise. Within 30 days after receiving a request for a certificate, the Franchise Tax Board shall either issue the certificate or notify the person requesting the certificate of the amount of tax that must be paid or the amount of bond, deposit, or other security that must be furnished as a condition of issuing the certificate. The issuance of the certificate shall not relieve the taxpayer or any individual or corporation from liability for any taxes, penalties, or interest imposed by this part, nor shall the issuance of the certificate in the case of any credit union which revokes its election to wind up and dissolve, relieve that credit union of any taxes or interest that would have been imposed under this part had the election not been filed.

The Franchise Tax Board shall furnish a copy of the tax clearance certificate to the Secretary of State.